

RESPONSE TO RESTRICTION REQUIREMENT  
U.S. Appln. No. 10/535,414 (Q87920)

REMARKS

SEQ ID NO 164 is hereby deleted from the claims as being redundant of SEQ ID NO:529.

Claim 2 has been amended to recite an upper limit of probes in the set, i.e., 1000, as supported at page 8 of the present specification. The lower limit in the probe set is 351 probes. Of the not more than 1000 probes, 351 of the probes must be those specifically recited in Claim 2.

Claims 4-5, 9, 13, 16-19 have been amended such that they are dependent on Claim 2, rather than cancelled Claim 1.

Claim 5 has been amended to recite an upper limit of 500 probes, as disclosed at page 8, line 9 of the present specification.

On page 2 of the Office Action, the Examiner issues a Restriction Requirement under 35 U.S.C. § 121 to one of the inventions of the following groups:

- Group I - Claims 1-5, 9 and 13, drawn to probe sets and kits containing the same; or
- Group II - Claims 16-19, 22-23, drawn to method of using the probe set.

The Examiner notes that Claims 28-30 and 32-35 link the invention of Group II, and that upon allowance of the linking claims, the restriction requirement with respect to the same will be withdrawn, and any claims dependent on the linking claims will be rejoined.

The Examiner contends that restriction is proper because the inventions do not relate to a single general inventive concept that has a common technical feature patentable over the

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prior art, i.e., the Examiner contends that Brennan teaches an array of 10mer oligonucleotides which encompasses the probe sets in the claims or sequences derived from the Tables.

Accordingly, Applicants hereby elect the invention of Group I, i.e., Claims 1-5, 9 and 13 (now Claims 2-5, 9 and 13) with traverse. Specifically, Brennan does not teach or suggest a combination of the specific 351 probes claimed, which can optionally include additional probes up to 1000 probes.

In any event, Applicants request rejoinder of the invention of Group II, as such are method of use claims which are dependent on the elected invention.

On page 3 of the Office Action, the Examiner issues an further restriction (election of species requirement) as follows:

Applicants must elect a single SNP or a single combination of probes, e.g., a single probe a combination of more than one probe but less than all of the disclosed probes, or a combination of all of the disclosed probes.

Further, the Examiner requires Applicants to indicate which claims read on the elected species.

Accordingly, Applicants hereby elect the combination of all of the 351 specifically recited probes as the species. All of the pending claims read on the elected species to be initially examined.

Applicants note that the Examiner states that upon allowance of a generic claim, Applicants will be entitled to consideration of additional species.

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The Examiner is invited to contact the undersigned at the below listed number on any questions which might arise.

Respectfully submitted,

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